

**WBR 1452.246-81 Failure to Meet Performance Warranties.**

As prescribed in WBR 1446.710-80(b), insert a clause substantially as follows:

**FAILURE TO MEET PERFORMANCE WARRANTIES--BUREAU OF RECLAMATION  
(SEP 1995)**

(a) In addition to any other warranties in this contract, this clause is applicable when end items furnished by the Contractor do not meet Reclamation-conducted performance warranties listed in the Supplies or Services and Prices section of The Schedule. Reclamation will conduct factory tests, field tests, or operations under service conditions as specified in this contract in accordance with Section C, Description/Specifications, of The Schedule.

(b) The Contracting Officer will notify the Contractor, within a reasonable time after discovery that the item does not meet warranty requirements under the "Warranty Characteristics" paragraph of Section B, Supplies or Services and Prices, of The Schedule. The Contractor will be given an opportunity to repair or replace defective equipment at the Contractor's expense.

(c) If the contractor does not repair or replace defective equipment, the Government may elect to accept equipment which does not pass factory test, field test, or operation under service conditions, and which does not meet the requirements of performance warranties, and the Government shall be entitled to an equitable reduction in the contract price for such equipment. Because of the impossibility of determining the actual loss to the Government due to such failure to meet warranties, the Government will adjust the contract price in accordance with the liquid damages in paragraph (d) (if included in this clause). All adjustments made in accordance with paragraph (d) of this clause shall be cumulative with no credit given for equipment which exceeds performance warranties. If the adjustments result in a reduction in the contract price which exceeds the amount due the Contractor, the Contractor shall promptly refund to the Government the excess amount and the Contractor and the its sureties shall be liable for that amount. This Adjustment shall be final and conclusive for both the Contractor and the Government, and neither party can use this adjustment as a basis for a claim against the other party.

(End of clause)

*Alternate I* (SEP 1995). If a turbine or a generator is to be acquired, add a paragraph (d) substantially the same as the following paragraph to the basic clause:

(d) The contract line item price for each \_\_\_\_\_ [*Insert name of equipment*] shall be reduced \$\_\_\_\_\_ [*Insert amount*] for each 1/100 of 1 percent that the actual efficiency is less than the warranted efficiency at [*Insert, as appropriate, 100 percent of rated output, voltage, frequency, or* \_\_\_\_\_ [*Insert amount*] power factor].

*Alternate II* (SEP 1995). If a turbine, generator, or pump is to be acquired, add a paragraph (d) substantially the same as the following paragraph to the basic clause:

(d) The contract line item price for each \_\_\_\_\_ [*Insert name of equipment*] shall be reduced \$\_\_\_\_\_ [*Insert amount*] for each 1/100 of 1 percent that the actual capacity is below the warranted capacity at [*Insert, as appropriate, rated voltage, frequency, and* \_\_\_\_\_ [*Insert amount*] power factor, and within the specified temperature rise limits].

*Alternate III* (SEP 1995). If an generator armature winding is to be acquired, add a paragraph (d) substantially the same as the following paragraph to the basic clause:

(d) (1) The contract line item price for each generator armature winding shall be reduced \$\_\_\_\_\_ [*Insert amount*] for each kilowatt that the actual armature winding I<sup>2</sup>R losses, as determined from field tests performed by the Contractor in accordance with the specification paragraph entitled "Field Tests" (rather than any previous tests performed by the Government), exceed the warranted losses at \_\_\_\_\_

[Insert number] volts, rated frequency, \_\_\_\_ [Insert number] power factor, and \_\_\_\_ [Insert number] kilovolt-ampere output.

(2) The contract line item price for each generator armature winding shall be further reduced \$\_\_\_\_ [Insert amount] for each 1/100 of 1 percent of the actual kilowatt capacity that is below the warranted capacity specified under the "Rating" subparagraph of the specification paragraph entitled "Type and Rating," and within the specified temperature limits.

*Alternate IV* (SEP 1995). If an isolated-phase bus structure is to be acquired, add a paragraph (d) substantially the same as the following paragraph to the basic clause:

(d) The contract line item price for each isolated-phase bus structure(s) will be reduced \$\_\_\_\_ [Insert amount] for each 1/10 of 1 kilowatt that the calculated losses exceed the total warranted kilowatt losses as stated under the specification paragraph entitled "Warranted Characteristics" of the Supplies or Services and Prices section of The Schedule.

*Alternate V* (SEP 1995) If a shunt reactor is to be acquired, add a paragraph (d) substantially the same as the following to the basic clause:

(d) The actual loss of each shunt reactor shall be determined on the same basis and service conditions as stated in the "Warranted Characteristics" paragraph of the Supplies or Services and Prices section of The Schedule. The contract price for each shunt reactor will be reduced by \$\_\_\_\_ [Insert amount] for each watt per kilovolt ampere that the actual loss exceed the warranted loss.

*Alternate VI* (SEP 1995). If a transformer is to be acquired, add a paragraph (d) substantially the same as the following paragraph to the basic clause:

(d)(1) The actual loss of each transformer will be determined on the same basis and service conditions as stated in the "Warranted Characteristics" paragraph of the Supplies or Services and Prices section of The Schedule. Each kilowatt that the actual losses of each transformer exceeds the warranted losses will be multiplied by the following rates:

No-load loss..... \$\_\_\_\_ [Insert rate]

Load loss..... \$\_\_\_\_ [Insert rate]

Total loss..... \$\_\_\_\_ [Insert rate]

(2) The Government will consider load loss as the difference between the total loss and the no-load loss. The contract price of the transformer will be reduced by the sum of the evaluated losses produced by this multiplication.

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